



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 14709683

Date: OCT. 16, 2020

Service Motion on Administrative Appeals Office Decisions

Form I-140, Immigrant Petition for Advanced Degree Professional

The Petitioner sought to employ the Beneficiary as a software engineer. It requested classification of the Beneficiary as a member of the professions holding an advanced degree under the second preference immigrant classification. Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). This employment-based immigrant classification allows a U.S. employer to sponsor a professional with an advanced degree for lawful permanent resident status.

The Petitioner filed the Form I-140 petition on September 26, 2006. The Director of the Nebraska Service Center approved the petition on November 21, 2006. The Director subsequently sent the Petitioner a notice of intent to revoke (NOIR) the petition's approval, and on October 19, 2012, the Director revoked the petition's approval due to the Petitioner's failure to respond to the NOIR.

The Director later vacated the October 19, 2012, decision and certified the case to us. We remanded the petition to the Director for continued review and processing. The Director subsequently issued a NOIR to the Petitioner and the Beneficiary, and on February 28, 2017, the Director revoked the approval of the petition and invalidated the ETA Form 9089, Application for Permanent Employment Certification, after receiving no response to the NOIR. The Beneficiary filed a motion to reopen and motion to reconsider; the Director granted the motion; and on October 30, 2017, she affirmed the February 28, 2017, decision revoking the approval of the petition and invalidating the labor certification application.

We dismissed a subsequent appeal on November 15, 2018. The Beneficiary then filed a motion to reopen and motion to reconsider, but the motions were denied as untimely filed on April 15, 2019. We subsequently denied a second motion to reopen and motion to reconsider on August 5, 2019.

As a matter of discretion, we are reopening this case on service motion pursuant to 8 C.F.R. § 103.5(a)(5)(i) and withdrawing our prior adverse decision of November 15, 2018, and our subsequent motion decisions of April 15, 2019, and August 5, 2019. We will remand the matter to the Director for further action as necessary and appropriate.

Accordingly, the following order shall be issued.

ORDER: The decisions of the Administrative Appeals Office, dated November 15, 2018, April 15, 2019, and August 5, 2019, are withdrawn. The matter is remanded for further proceedings.

FURTHER ORDER: The ETA Form 9089, case number  is reinstated.